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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,436	02/09/2004	Sofia Hermansson	018798-192	6591
21839	7590	07/12/2005	EXAMINER	
BUCHANAN INGERSOLL PC (INCLUDING BURNS, DOANE, SWECKER & MATHIS) POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			GIBSON, KESHIA L	
		ART UNIT		PAPER NUMBER
				3761

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10-773436

EXAMINER

ART UNIT      PAPER

10773436

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/773,436	HERMANSSON ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Keshia Gibson	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 April 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 4/28/05 have been fully considered but they are not persuasive. Applicant has argued that:

1) The fastener 36/37 of Murphy does not facilitate opening of the wrapper due to its arrangement in relation to other elements of the wrapper and because it does not raise the lid from the wrapper.

However, the fastener 36/37 does allow for the opening of wrapper. The fastener associated with 78 facilitates opening of the outer part of outer part 16 of the lid while another fastener, associated with 36/37, facilitates opening of a second part 34 of the lid (Figs. 2 and 8). Also, Murphy has depicted that the fastener may be selected from a group of several different types of fastener, including snaps or hook-and-loop-type fasteners (Figs. 2 and 8). In both these cases, the fastener comprises some thickness, a thickness that results in a distance between the lower surface of the lid and the upper surface of the panel. Thus, the fastener 36/37, 78 is still considered to facilitate the opening of the lid.

2) The closure of Moran does not have a width less than a width of the lid part and that there would not be any available raised space into which a user could position their fingers. However, "a width" could any almost any section of the closure or of the lid. The "a width" of the closure can be any distance that has an extent that is less than "a width" of the lid, which from hereafter, for the sake of simplicity, has been defined as the distance from the left edge of the lid to the right edge of the lid. The

"a width" of the closure could be the distance from a point of the closure just to the right of the left side of the lid to a point on the closure just to the left of the lid. This "a width" could also be the distance from the top of the closure to the bottom of the closure; this distance is consistently depicted as being much less than the distance of the lid along which the closure extends. Also, the closure of Moran does leave unadhered portions near the sealed closures, which are capable of being used to facilitate opening of the wrapper- regardless of how large or small these portions might be.

3) Kolterjohn et al. in view of Moran does not render obvious the claimed invention since the closure of Moran did not have a width less than that of the lid and did not facilitate opening, as previously explained in the applicant's arguments. As statement previously in this response, Moran is still considered to meet the limitations of the claimed invention. Thus, the obviousness rejections based on Kolterjohn et al. in view of Moran are still considered to meet the limitations of the claimed invention.

Despite applicant's arguments, the Murphy, Moran, and Kolterjohn et al. in view of Moran are still considered to be an obvious combinations and to meet the structural limitations set forth in Claims 1-20 of the claimed invention, as presented in the previous Office Action (which has been modified and presented again, in view of applicant's amendments, as follows).

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy (U.S. Pat. 4286639).

In regard to currently amended Claim 1, Murphy discloses a wrapper 15/72 for an absorbent article 38 comprising 1) a container part 33 with an opening for inserting/removing an absorbent article (Column 1, lines 9-14), 2) a lid 16/75 having an open position and a closed position (Figures 2 and 8) and releasably attached to the outside of the container part 33 (column 1, line 68- column 2, line 2), and a distance element (snap fastener 30, 36/37 or hook-and-loop fastener 78) is arranged between the lid part 16/75 and the container part 33 to facilitate opening of the wrapper 15 (Figures 2 and 8). The distance element 30, 36/37, 70 has a width (distance from left to right) that is less than the overall width (distance from left edge to right edge) of the lid 16/75.

In regard to Claim 2, as discussed for Claim 1, Murphy discloses a wrapper with a lid portion 16/75. The wrapper 15/72 has a first end (at fold 50) and a second end (at the opposing edge of lid 16/75). The distance element 30, 36/37, 78 is located by the end edge, which is the edge associated with the lid's second end.

In regard to Claim 3, Murphy discloses that the wrapper is formed from a single sheet that has been folded at fold lines 52 and 53 so that a front panel 18 and a back panel 17 are formed and create a pocket portion and a flap portion (column 2, lines 55-73; column 3, lines 47-48).

In regard to Claim 13, the distance element of wrapper 15/72 disclosed by Murphy has a first inactive state when the wrapper 15/72 is fully closed (as seen in Figure 1) and a second inactive state when the wrapper 15/72 is fully open (as seen in Figure 2).

In regard to Claim 14, the distance element of the wrapper 15/72 disclosed by Murphy can be brought from the first inactive state (Figure 1) to the second inactive state (Figure 2) by manipulating the distance element 30, 36/37, or 78 (column 2, lines 20-25; Figure 7; Figure 8).

In regard to Claims 15-16, Murphy discloses a distance element made from hook-and-loop fasteners.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 19 and 20 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Moran et al. (WO 0226579).

In regard to currently amended Claim 19, Moran et al. disclose a disposable packaging wrapper 10, 30, 40, 50 having a container part (labeled Y in Figure 1 below), a lid part 14, and a distance element (closure strip) 18 comprising foam material. Moran et al. go

on to teach that the distance element provides resiliency to enable the closure to seal around containments and allows for some lateral distortion of the closure without stressing the bond layer (page 2, lines 3-9).

As discussed in the response to applicant's arguments, "a width" of the distance element can be defined as any of the numerous possible distances associated with the distance element, including the distance from the top edge of the distance element to the bottom edge of the distance element. In this case, the "a width" of the distance element 18 is less than the overall width (from left edge to right edge) of the lid 14.

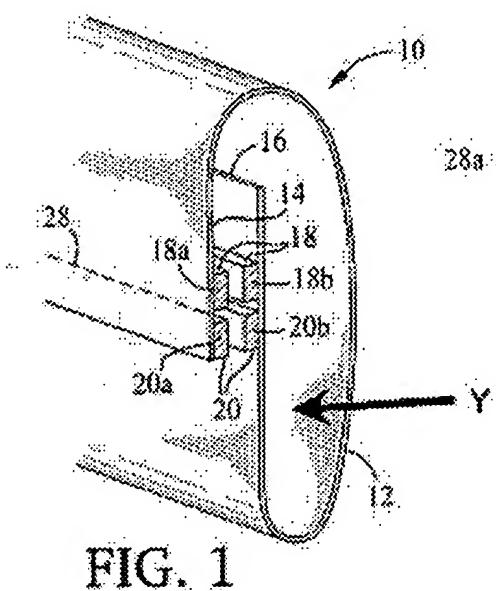


FIG. 1

In regard to Claim 20, Moran et al. disclose the use of a distance element of foam material (page 2, lines 4-24), which is a compressible material as claimed by the applicant. The foam material can be open-cell foam (page 4, lines 3-4).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Murphy.

Murphy discloses the use of snap fasteners or hook-and-loop fasteners as distance elements; however, Murphy does not disclose the thickness of these elements. It is reasonably possible for these elements to be of a thickness of 0.5 mm.

7. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolterjohn et al. (U.S. Pat. Pub. 2002/0063076A1) in view of Moran et al.

In regard to currently amended Claims 1 and 17, Kolterjohn et al. disclose a wrapper 24 for a folded absorbent article 22 ([0037]-[0038], [0041]) comprising 1) a container part (between middle portion 44 and back portion 46 of the wrapper) having an opening (near edge 38) that allows the absorbent article 22 to be removed from the wrapper 24 (Figure 1), 2) a lid part 50 that, when in a closed position, closes the opening of the wrapper 24 (Figure 1), and 3) an adhesive or other closure (not shown).

Kolterjohn et al. also disclose a wrapper 60 for at least one folded absorbent article 20 ([0007], [0041]) comprising 1) a container part 64 having an opening 68 that allows the absorbent article 20 to be removed from the wrapper 24 ([0042], Figure 1), 2) a lid part

70 that, when in a closed position, closes the opening 68 of the wrapper 60 ([0042], Figure 2), and 3) a closure 76 arranged between the lid and container portions (Figure 3) and made from an adhesive, two-sided tape, or other material [0043].

Kolterjohn et al. fail to disclose a distance element that is located between the lid part and the container part to facilitate opening of the wrapper. The distance element has a width, which has been defined to lie from the top edge of the distance element to its bottom edge, that is less than a width of the lid (wherein the width has been defined from the left edge to the right edge of the lid).

Moran et al. teach a wrapper (10, 30, 40, 50) with a container part (labeled Y in Figure 1 above and below), a lid part 14, and a distance element (closure strip) 18 comprising foam material. Moran et al. go on to teach that the distance element provides resiliency to enable the closure to seal around containments and allows or some lateral distortion of the closure without stressing the bond layer (page 2, lines 3-9). Moran et al. and Kolterjohn et al. are analogous art because they are from the same field of endeavor: sealable packages. Thus, it would have been obvious to one of ordinary skill in the art to modify Kolterjohn et al. by using the closure disclosed by Moran et al. since Moran et al. state that the closure improves the sealing capabilities of the wrapper.

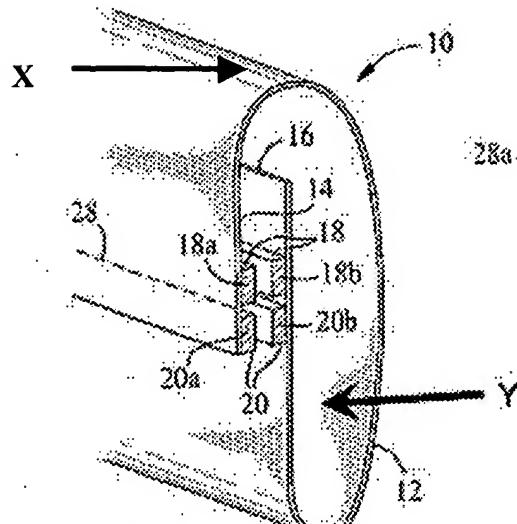


FIG. 1

In regard to Claim 2, Kolterjohn et al. disclose the lid part 70 having a first end 42 and a second end 36. They disclose that the distance element can be located by the end edge of the lid's second end ([0044]). Moreover, Moran et al. disclose the lid part 14 having a first end (labeled X in Figure 1 above) and a distance element 18 located by the end edge of the lid's second end 46 (Figures 1, 4, 4A and 4B).

In regard to Claim 3, Kolterjohn et al. disclose the wrapper 24/60 is formed from a rectangular piece of material 30/90 having two fold lines 40/100, 42/102 that divide the wrapper into 3 panels 44/104, 46/106, 48/108 ([0039], [0046]). The second panel 44/104 and the central panel 46/106 are joined to each other along side edges 32/92, 34/94 ([0039], [0046]).

In regard to Claims 4-5, Kolterjohn et al. disclose that the side edges 32/92, 34/94 may be sealed number of ways, including mechanical fastening, adhesives, or heat sealing ([0040], [0046], [0054]).

In regard to Claim 6, Moran et al. disclose that the thickness of the foam layer of the closure can be from 0.5 to 1.3 millimeters for thinner foam layers (page 4, lines 4-8).

In regard to Claim 7, Moran et al. disclose the use of a distance element of foam material (page 2, lines 4-24), which is a compressible material as disclosed by the claimed invention.

In regard to Claim 8, Moran et al. disclose that the distance element can be open-cell foam (page 4, lines 3-4).

In regard to Claims 9-12, the claimed invention discloses that fibrous wadding, a helical spring, a spring plate, and an elongated elastic element perform equally as well as an open-cell foam material and are therefore all considered equivalents. As a result, there is no reason to believe that the distance element of Moran et al. would not perform equally as well as that of the claimed invention; the claimed invention is not considered patentably distinct from the prior art.

In regard to Claim 13, Moran et al. disclose that distance elements comprising the thinner open-cell foam may be more suited for bags that need to be densely stacked (page 4, line 5-8). Thus, the distance element would perform in the same manner as specified by the claimed invention. It would have a first inactive (or compressed) state during dense stacking or packaging and a second inactive (or uncompressed) state once removed from the stack or package. Furthermore, as discussed for Claims 1 and 2, Moran et al. also disclose that the wrapper (10, 30, 40, 50) has a distance element 18 located near the end edge of the lid's second end 46. This distance element has a first inactive (engaged) state when in contact with the wrapper's second panel (labeled Y in

Figure 1 above) and a second inactive (unengaged) state when not in contact with the second panel.

In regard to Claim 14, as discussed for Claim 13, the distance element 18 disclosed by Moran et al. has a first inactive state and a second inactive state. This distance element 18 can be brought from the first active state to the second inactive state either by stacking/packing and unstacking/unpacking the wrapper (i.e., manipulation of the distance element through mechanical force) or by engaging or disengaging the distance element.

In regard to Claim 15, Moran et al. disclose that the distance element 18 comprising a foam layer and a self-adhesive layer (page 2, lines 12-14). The self-adhesive layer seals the wrapper's lid (page 2, lines 21-23).

In regard to Claim 16, as discussed for Claim 15, Moran et al. disclose that the distance element 18 comprises a self-adhesive layer. Moran et al. go on to disclose that the self-adhesive layer of the distance element 18 is reclosable (page 7, lines 8-21).

In regard to Claim 18, as discussed for Claims 7 and 8, Moran et al. disclose a distance element comprising open-cell foam.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berg, Jr. et al. (US 5,484,636).
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP.

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Keshia Gibson  
Examiner, Art Unit 3761  
klg 6/30/05

**TATYANA ZALUKAEVA**  
**PRIMARY EXAMINER**  
